1. INTRODUCTION

WHAT IS TAX:- A Tax (from the Latin taxo) is a mandatory fee imposed upon a taxpayer (an individual or other legal entity) by the central and the state government at predefined rates and periodicity on a product, income, activity or services. A failure to pay, or evasion of or resistance to taxation, is punishable by law.

WHY TAXES ARE LEVIED:- Revenue so raised is utilized for meeting the expenses of government which is required for public welfare like defence, provision of education, health care, infrastructure facilities like roads, dams etc.

2. DIRECT AND INDIRECT TAXES

BASIS FOR COMPARISON	DIRECT TAX	INDIRECT TAX
Meaning	It is a tax levied directly on a taxpayer who pays it to the Government and cannot pass it on to someone else.	It is a tax levied by the Government on goods and services and not on the income, profit or revenue of an individual and it can be shifted from one taxpayer to another.
Nature	Progressive in nature - high rate of taxes for people having higher ability to pay.	Regressive in nature - All the consumers equally bear the burden, irrespective of their ability to pay.
Incidence and Impact	Falls on the same person.	Falls on different person.
Types	• Income Tax- It is imposed on an individual who falls under the different tax brackets based on their earning or revenue and they have to file an income tax return every year after which they will either need to pay the tax or be eligible for a tax refund. • Estate Tax– Also known as Inheritance tax, it is raised on an estate or the total value of money and property that an	Earlier • Customs Duty- It is an Import duty levied on goods coming from outside the country, ultimately paid for by consumers and retailers in India. • Central Excise Duty– This tax was payable by the manufacturers who would then shift the tax burden to retailers and wholesalers. • Service Tax– It was imposed on the gross or aggregate amount charged by the service provider on the recipient.

	individual has left behind after their death. • Wealth Tax– Wealth tax is imposed on the value of the property that a person possesses.	• Sales Tax– This tax was paid by the retailer, who would then shifts the tax burden to customers by charging sales tax on goods and service. • Value Added Tax (VAT)– It was collected on the value of goods or services that were added at each stage of their manufacture or distribution and then finally passed on to the customer. Now:- GST & Custom Duty
Evasion	Tax evasion is possible.	Tax evasion is hardly possible because it is included in the price of the goods and services.
Inflation	Direct tax helps in reducing the inflation.	Indirect taxes promotes the inflation.
Imposition and collection	Imposed on and collected from assessees, i.e. Individual, HUF (Hindu Undivided Family), Company, Firm etc.	Imposed on and collected from consumers of goods and services but paid and deposited by the assessee (dealer).
Burden	Cannot be shifted.	Can be shifted
Event	Taxable income or wealth of the assessee	Purchase/sale/manufacture of goods/ provision of services/Supply of Goods or Services

3. FEATURES OF INDIRECT TAXES

An important source of revenue: Indirect taxes are a major source of tax revenues for Governments worldwide. In India, indirect taxes contribute more than 50% of the total tax revenues of Central and State Governments. Collection costs of indirect taxes as percentage of tax collected are lower in indirect taxes compared to direct taxes.

Tax on commodities and services: It is levied on commodities at the time of manufacture or purchase or sale or import/export thereof. Hence, it is also known as commodity taxation. It is also levied on provision of services.

Shifting of burden:- There is a clear shifting of tax burden in respect of indirect taxes. For example, GST paid by the supplier of the goods is recovered from the buyer by including the tax in the cost of the commodity.

No perception of direct pinch: Since the price of commodity or service is already inclusive of indirect taxes, the customer i.e. the ultimate tax payer does not feel a direct pinch while paying indirect taxes and hence, resistance to indirect taxes is much less compared to resistance to direct taxes.

Manufacturer's/ Dealer's Psychology favours indirect taxes- The manufacturer/ trader who collects the taxes in his Invoice and pays it to Government, has a psychological feeling that he is only collecting the taxes and is not paying out of his own pocket (though this feeling may not be always correct).

Inflationary: Indirect taxes increase the prices of products and hence are often perceived as inflationary.

Wider tax base: Unlike direct taxes, the indirect taxes have a wide tax base. Majority of the products or services are subject to indirect taxes with low thresholds.

Promotes social welfare: Government can levy higher taxes on consumption of harmful products (also known as 'sin goods') such as alcoholic products, tobacco products etc,

Regressive in nature: Indirect taxes do not depend on paying capacity. Since the indirect tax is uniform, the tax payable on commodity is same, whether it is purchased by a poor man or a rich person. Hence, the indirect taxes are termed as 'regressive'. (This argument is only partially correct; as it is possible to levy lower taxes on goods of daily consumption while levying higher taxes on luxury goods and the regressive effect can be reduced in many circumstances.)

4. GENESIS OF GST IN INDIA (भारत में जीएसटी की उत्पत्ति)

Here is a brief chronology outlining the major milestones on the proposal for introduction of GST in-India:

16-7-2004	The Kelkar Task Force on indirect tax strongly recommend the need of national GST based on VAT principle.
28-02-2006	Former Finance Minister Sh.P.Chidambram announced that during in Budget speech, GST would be introduced in **from 01st April 2010.**Thereafter GST missed several deadlines.
19-12-2014	NDA Government introduced the Constitution (122nd Amendment) Bill, 2014 on GST in the Parliament on 19th December, 2014.
06-05- 2015	The Lok Sabha passed the Constitution (122nd Amendment) Bill, 2014
03-08- 2016	The Rajya Sabha passed the Constitution (122nd Amendment) Bill, 2014
08-09-2016	Subsequent to ratification of the Bill by more than 50% of the States, Constitution (122nd Amendment) Bill, 2014 received the assent of the President. and became Constitution (101st Amendment) Act, 2016, which paved the way for introduction of GST in India.
27-03-2017	The Central GST legislations - CGST Bill, 2017, IGST Bill, 2017, UTGST Bill, 2017 and GST (Compensation to States) Bill, 2017 were introduced in Lok

	Sabha.
29-03-2017	Lok Sabha passed the Central GST legislations - CGST Bill, 2017, IGST Bill, 2017, UTGST Bill, 2017 and GST (Compensation to States) Bill, 2017
12-04-2017	The Central GST legislations - CGST Bill, 2017, IGST Bill, 2017, UTGST Bill, 2017 and GST (Compensation to States) Bill, 2017 received the President's assent and the Bills enacted.

- The enactment of the Central Acts was followed by the enactment of the State GST laws by various State Legislatures. Telangana, Rajasthan, Chhattisgarh, Punjab, Goa and Bihar were among the first ones to pass their respective State GST laws.
- The GST Bill, termed as the most radical tax reform since Independence, seeks to subsume all central indirect taxes like excise duty, countervailing duty and service tax, as also state levies like Value Added Tax, entry tax and luxury tax, to create a single, pan-India market

- France was the first country to implement GST in the year 1954. Within 62 years of its advent, about 160 countries across the world have adopted GST because this tax has the capacity to raise revenue in the most transparent and neutral manne. CANADA was the first country who adopted the DUAL GST MODEL like India.

5. CONCEPT OF GST

WHAT IS GST?

GST is a single tax on the supply of goods and services, right from the manufacturer to the consumer. Credits of input taxes paid at each stage will be available in the subsequent stage of value addition, which makes GST essentially a tax only on value addition at each stage. The final consumer will thus bear only the GST charged by the last dealer in the supply chain, with set-off benefits at all the previous stages.
GST in India will be dual system, where the Central and State together will levy tax on supply of goods and / or services, within the State (Intra-State) and Inter-State.

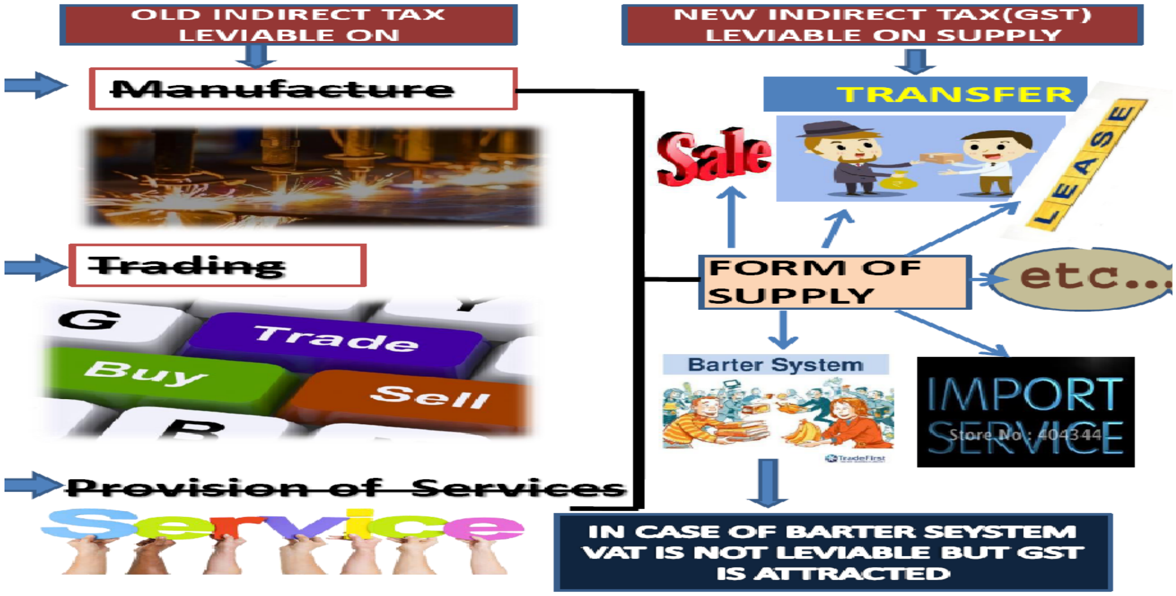
NEED FOR GST IN INDIA

<u>Deficiencies in the existing value added taxation :-</u>

1. The old indirect tax system with multiplicity of taxes (Central Levy:-excise duty, Service Tax, Various Cess and State Levies:- VAT, Entry Tax, Octroi, Luxury Tax, Entertainment taxes, Purchase Tax etc.) - at different rates - at multiple points (at the time of manufacture, trade, rendering services etc.).
2. Non-inclusion of several local levies in State VAT such as luxury tax, entertainment tax, etc.
3. The credit of input excise/service tax is available for set-off against output liability of excise/service tax. However, the credit of VAT is not available against excise/service tax and vice versa.
4. In case of Inter State Sales CST is levied by the central government and collected by the state government. In the existing system dealer can't avail the credit of CST. Which creates the cascading effect.
5. VAT is computed on a value which includes excise duty, and no CENVAT credit is allowed for it. This shows that there is a tax on tax!
6. VAT rates and regulations differ from state to state. And it has been observed that states often resort to slashing these rates for attracting investors. This results in loss of revenue for both the Central as well as State government.
7. Huge litigation whether a particular transaction is good or service result Double taxation of an activity if it consist service and goods like catering services. Both Central and State levied the tax which creates DOUBLE TAXATION.

<u>A cure for ills of existing indirect tax regime:-</u>

1. GST consolidates all indirect tax levies into a single tax, except customs (excluding SAD) replacing multiple tax levies, overcoming the limitations of existing indirect tax structure, and creating efficiencies in tax administration. The concept of manufacturing, sale of goods and provision of service is not relevant now.GST is levied only of supply of goods or Service or both.



2. GST is a comprehensive tax system it covers both goods and services.GST has integrating tax on both goods and services and remove the cascading effect at Manufacturer level, Service Provider Level and Dealer Level. They can easily avail the credit of tax paid and set off the same.

6. FRAMEWORK OF GST AS INTRODUCED IN INDIA

1. Dual GST (Goods and Services Tax):

Canada is the first country who adopted the DUAL GST model. In consideration of the federal structure of India, Dual GST has been chosen as the apt model wherein tax would be jointly levied by both Centre and the states on supply of goods and services.

The components of Dual GST are:

- CGST: Central GST
- SGST: State GST
- IGST: Integrated GST

On intra-state transactions CGST+SGST will be applicable and on interstate transactions, IGST will be applicable.

GST MODEL

National GST	Tax levied by Centre with sharing of revenue with state	Australia China	
State GST	Tax levied by the state and retained by themselves.	USA	
Non Concurrent GST	Centre levies GST on services and State levies GST on goods		--
Concurrent Dual GST Model	Tax levied by Centre and state on both goods and services	Brazil Canada India	

2. GST Rates:

There are likely to be 3 sets of rates as below:

- Merit Rate
- Standard Rate
- De-Merit Rate

There is also likely to be a lower rate for precious metals and zero-rate for essential goods.

0% 50% of the consumer price basket including good grains	**18%** Soap oils, tooth Pastes, Refrigerators, Smartphones.
5% Mass Consumptions items Like Spices, Mustard Oil	**28%** White Goods, Cars
12% Processed Foods	**28% Plus Cess** Luxury Cars, Tobacco Masalas, Alcohol

3. Legislative Framework

There is Single Legislation for each

For levy of CGST the legislature framework is CGST ACT,2017	For levy of IGST the legislature framework is IGST ACT,2017	For levy of SGST the legislature framework is SGST ACT,2017	For levy of UTGST the legislature framework is UTGST ACT,2017

All States having there own legislations but the basic feature of law are uniform as far as feasible like Chargeability, Defination of Taxable Event & Taxable Person, Classification and Valuation of Goods & Services, Procedure for Collection and Levy of Tax etc.This is necessary to preserve the essence of tax.

4. Taxes Subsumed:

The taxes which will get subsumed under GST are:

Subsumed in GST	**Not subsumed in GST**
Central Excise	Basic Customs duty
Service Tax	Alcohol for human consumption
VAT / Sales Tax	Petrol / Diesel / Aviation fuel / Natural Gas*
Entertainment Tax	Stamp duty and Property tax
Luxury Tax	Toll tax
Taxes on lottery	Electricity Duty
Octroi and Entry Tax	
Purchase tax	

*To be included only at a later notified date

5. ITC Utilization:

The manner of availing input tax credit for setoff of tax liability is defined as under:

Input Tax Credit	**Set-off against liability of**
CGST	CGST and IGST (in that order)
SGST	SGST and IGST (in that order)
IGST	IGST, CGST, SGST (in that order)

Please note that CGST and SGST cannot be set off against one another.

Example 1 – How can CGST and SGST ITC be used?

Super Cars Ltd. is a car manufacturer located in Karnataka. The details of transactions effected by Super Cars Ltd. are furnished below along with the tax component:

Party Name	**Destination State**	**Transaction Type**	**Product**	**Input Credit**		**Tax Liability**	
				CGST	**SGST**	**CGST**	**SGST**
Ratna Steels	Karnataka	Purchase (Inward Supply)	Steel	1,20,000	1,20,000	—	—
Ravindra Automobiles	Karnataka	Sale (Outward Supply)	Car	—	—	36,000	36,000
Ravindra Automobiles	Karnataka	Sale (Outward Supply)	Spare parts	—	—	90,000	90,000

In the example, Super Cars Ltd. has a tax liability of 12,000. Here is how it happens:

1. Super Cars Ltd. have Input tax credit of 1,20,000 each against CGST and SGST.

2. As prescribed by Law, Super Cars Ltd. first utilized ITC of CGST 1,20,000 to set off CGST liability of 1,26,000 (36,000+90,000). After this adjustment, CGST liability is 6,000 (1,26,000 – 1,20,000).
3. Later, SGST input credit of 1,20,000 is set off against SGST liability of 1,26,000 (36,000+90,000). After setting off SGST input credit, 6,000 (1,26,000 – 1,20,000) is the SGST liability.
4. After utilizing the available input credit of both CGST and SGST, the tax liability of Super Cars Ltd. is 12,000 (CGST liability 6,000 + SGST liability 6,000).
5. Any input credit balance of CGST, after setting off tax liability towards CGST, cannot be used to set off against SGST. The balance of ITC under CGST (post set off of CGST liability) will be carried over to the next period.
6. Similarly, the SGST balance after set off of SGST liability will be carried over to the next period.

Example 2 – How can IGST ITC be utilized?

Consider another set of transactions for Super Cars Ltd.

Party Name	Destination State	Transaction Type	Product	Input Credit			Tax Liability		
				CGST	SGST	IGST	CGST	SGST	IGST
Shine Aluminium Industries Ltd.	Tamil Nadu	Purchase (Inward Supply)	Aluminium Bars	—	—	30,000	—	—	—
Lakshmi Rubber Industries Ltd.	Tamil Nadu	Purchase (Inward Supply)	Tyres	—	—	10,000	—	—	—
A-1 Spares	Maharashtra	Sale (Outward Supply)	Spare Parts	—	—	—	—	—	12,000
Johnson Auto Parts	Karnataka	Sale (Outward Supply)	Spare Parts	—	—	—	24,000	24,000	—

At the end of the month, Super Cars Ltd. utilized IGST Input tax credit to set off their tax liability.

As illustrated above,

1. Super Cars Ltd. have IGST Input tax credit of 40,000 and tax liabilities of IGST 12,000, CGST 24,000 and SGST 24,000.
2. As prescribed by Law, IGST Input credit needs to be utilized first to set off IGST tax liability. The remaining ITC can be used to set off CGST and then against the SGST liability, in that order.
3. Super Cars Ltd. first utilized IGST ITC to set off IGST liability of 12,000.
4. Remaining IGST ITC credit 28,000 (40,000 – 12,000) is used to set off CGST liability of 24,000.

5. Post this adjustment, the remaining IGST ITC of 4,000 is used to set off SGST liability to the extent of 4,000.
6. Now, after utilization of Input credit available, the SGST liability of Super Cars Ltd. is 20,000.

Example 3 – CGST ITC cannot be used for SGST liability

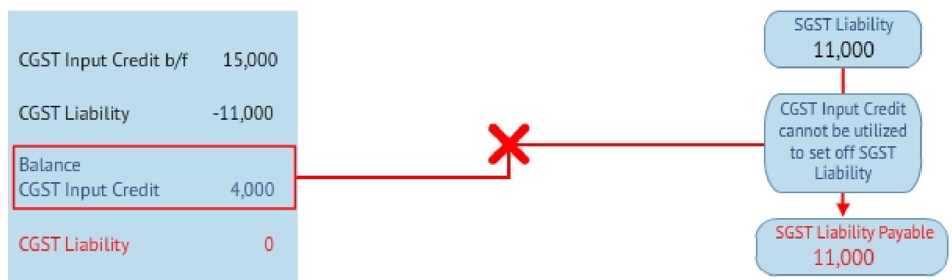
Let us consider another scenario of Super Cars Ltd. to illustrate non-utilization of CGST ITC against SGST liability.

Super Cars Ltd. had a carry forward balance of CGST Input credit 15,000.

Input Credit balance	**Amount**
CGST Input Credit	15,000

During the month, outward supply details of Super Cars Ltd. are furnished below:

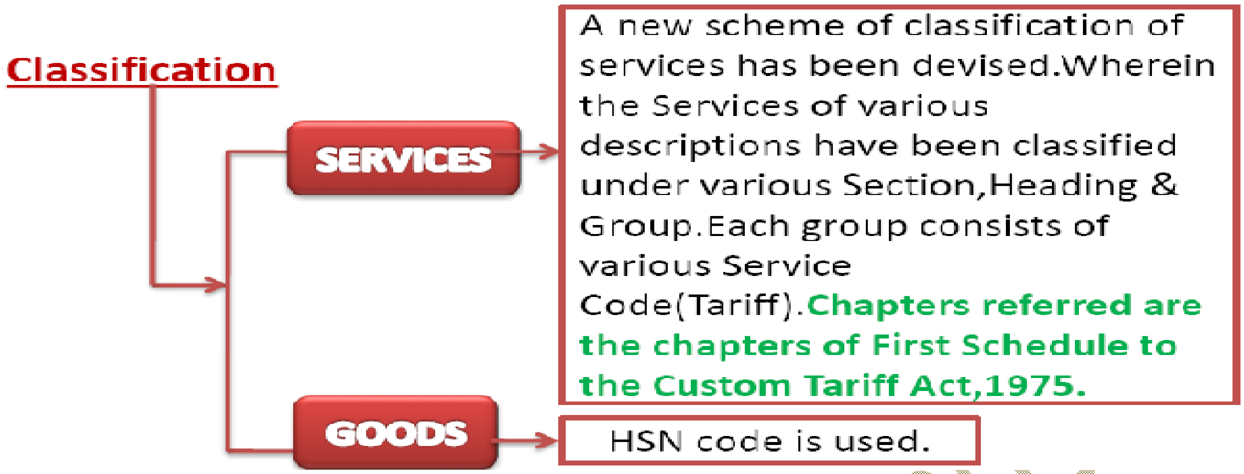
Party Name	Destination State	Transaction Type	Product	Input Credit		Tax Liability	
				CGST	SGST	CGST	SGST
Johnson Auto Parts	Karnataka	Sale (Outward Supply)	Spare Parts	--	--	11,000	11,000



As illustrated,

1. Super Cars Ltd. utilized CGST Input Credit of previous period 15,000 to set off CGST liability of current period 11,000.
2. After this set off, Super Cars Ltd. has a balance CGST input credit of 4,000.
3. As prescribed by the Law, excess CGST Input Credit for the period cannot be set off against SGST liability of current period. Similarly, SGST Input Credit cannot set off against CGST liability.
4. Thus, the balance CGST credit was not utilized, and the SGST liability for Super Cars Ltd. for the months is 11,000.

6. Classification of goods and services



7. Registation :-

GST Registration threshold is Rs 10 Lakh for special category states*, and Rs 20 Lakh for Rest of India.

*Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand

Existing dealers would be auto-migrated and given a 15-digit PAN based GSTIN with following structure.

State Code		PAN										Entity Code	Blank	Check Digit
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15

The entity code will be applicable for taxpayers having multiple business verticals within the state.

8. Composition Scheme

- Considering the compliance complexity for small dealers, GST regime has provided a simpler compliance for their business called 'composition scheme'.
- Refers to a scheme which is providing relief to small Businesses making intra state supplies.
- Means this Scheme is not available who providing the supplies of Services.
- Person may opt for Composition scheme only when its turnover in last Financial year is less than 75 lakhs
- RATE OF GST ON TURNOVER:- 1% for trader, 2% for Manufacturer and 5% for Restaurant owners

9. Exemption:-

Apart from providing relief to small-scale business, the law also contains provisions for granting exemption from payment of tax on essential goods and/or services.

10. Seamless flow of Credit : -

- ✓ Since GST is worked under destination based consumption tax, revenue of SGST ordinarily accrues to the consuming States.
- ✓ In case of Inter State Supplies the supplier of exporting State can set of there IGST liability against the credit of IGST,CGST,SGST or UTGST (in that order).

- ✓ The buyer of Importing State is eligible to avail the credit of IGST paid . Earlier scenario of the tax credit chain used to break at this point because buyer paid the CST on inter State sales but he was not eligible to avail the credit for against there local sales or interstate sale.

- ✓ The exporting State transfer the revenue to the Centre Government the credit of SGST/UTGST used in payment of IGST.

- ✓ The Central Government transfers to the importing State the credit of IGST is used in payment of SGST or UTGST.

- ✓ A common portal was needed which act as clearing house and verify the claims and inform the respective Government to transfer the funds. This was possible only with the help of strong IT Infrastructure.

11. GST Common Portal

- Government `wants to establish a common portal for interface between users and Central & State Government. Resultantly a common electronic portal is developed is known as “www.gst.gov.in “.

- One single common portal is developed for all GST related services. This will be access through internet.

- GST website is managed by Goods & Services Network (GSTN) [GSTN is a company incorporated under the provision of section8 of the Companies Act 2013.

- Primarily ,GSTN provides three front end services to the user(taxpayer) namely registration, payment & return through GST common portal.

- Function of GSTN:-
  1.Facilitating registration
  2.Computation & settlement of IGST
  3.Matching of Tax Payment detail with Bank Network.
  4. Forwarding the return to Central & State authority.
  5.Providing MIS report to State & Central Government as per there requirement based upon the information in return filled by the taxpayer.
  6.Helps in managing the matching concept of reversal and reclaim of input tax credit after analysing the profile of taxpayer’s.

The Goods and Service Tax Network (or GSTN) is a non-profit, non-government organization. It will manage the entire IT system of the GST portal, which is the mother database for everything GST. This portal will be used by the government to track every financial transaction, and will provide taxpayers with all services – from registration to filing taxes and maintaining all tax details.

Structure of GSTN

Private players own 51% share in the GSTN, and the rest is owned by the government. The authorized capital of the GSTN is ₹10 crore (US$1.6 million), of which 49% of the shares are divided equally between the Central and State governments, and the remaining is with private banks.

The GSTN has also been approved for a non-recurring grant of Rs. 315 crores. The contract for developing this vast technological backend was awarded to Infosys in September 2015.
The GSTN is chaired by Mr. Navin Kumar, an Indian Administrative Service servant (1975 batch), who has served in many senior positions with the Govt. of Bihar, and the Central Govt.

Shareholder	Shareholding
Central Government	24.5%
State Governments & EC	24.5%
HDFC	10%
HDFC Bank	10%
ICICI Bank	10%
NSE Strategic Investment Co	10%
LIC Housing Finance Ltd	11%
Total	**100%**

12. GSP/ASP:-

GSP:-

- GSP Stands for GST Suvidha Provider.

- GSPs are enabler for the taxpayer to comply with provisions of GST.
- GSP are selected by GSTN to reduce the load on GST IT Infrastructure as well as to simplify the invoice uploading and return filling process specially for large business entities file return in bulk where they can automate there process.
- These services of GSPs are required to exchange the data between GSTN Server and third party applications (known as ASPs).
- As the data being exchanged are highly sensitive in nature, the GSPs provide a completely secure data transmission network.

ASP:-
GSP designing some application own IT department or by using service from third party .The third party service provider is also called ASP(Application Service Providers).ASP act as a link between taxpayers and GSPs.

13. **Compensation Cess**

- ✓ Compensation Cess is levied both inter State & Intra State Supply of goods or services or both to provide the compensation to the State for loss of revenue due to the implementation of GST.
- ✓ The GST Compensation Cess would be imposed for a period of 5 yearfrom the day of GST implementation.
- ✓ It is applicable on the specified luxury item or demerit goods like pan masala, tobacco, aerated water, motor cars etc.

14. Other Points

GST is levied on Goods & Services except alcoholic liquor for human consumption and petroleum crude ,diesel, petrol, ATF and natural gas.

GST ON ALCOHOLIC LIQUOR FOR HUMAN CONSUMPTION:-

Alcoholic liquor is out side the realm(area)of the GST. Therefore manufacture\Production of alcoholic liquor continue to be subject to Excise Duty and VAT/CST. Government needs to amend the Constitution for creating the chargeability under the GST on alcoholic liquor.

GST ON PETROLEUM CRUDE,DIESEL,PTROL,ATF,NATURAL GAS:-

They are not presently leviable on GST.GST will be leviable from a date to be notified on the recommendation by the GST council. Till date Central Excise Duty continue to be levied on manufacture\production and on sale VAT\CST is leviable.

GST ON TOBACCO:-

Tobacco is within the purview of GST i.e. GST leviable on tobacco .However union government has also retain the power to levy the excise duties on tobacco and tobacco products manufactured in India. Therefore, tobacco is subject to GST as well as Central Excise Duty.

Sale\Purchase of immovable property has been kept out of the ambit of GST.

7. BENEFITS OF GST

Creation of Common National Market:
GST aims to make India a common market with common tax rates and procedures and remove the economic barriers thus paving (मज़बूत) the way for an integrated economy at the national level.

Mitigation of ill effects of cascading:
By subsuming most of the Central and State taxes into a single tax and by allowing a set-off of prior-stage tax is reducing the cascading effect.

Elimination of multiple taxes and double taxation:
GST subsume majority of existing indirect tax levies both at Central and State level into one tax i.e., GST which is leviable uniformly on goods and services. This will make doing business easier and will also tackle the highly disputed issues relating to double taxation of a transaction as both goods and services.

Boost to 'Make in India' initiative:
GST will give a major boost to the 'Make in India' initiative of the Government of India by making goods and services produced in India competitive in the national as well as international market

Buoyancy to the Government Revenue:
GST is expected to bring buoyancy to the Government Revenue by widening the tax base and improving the taxpayer compliance.

8. CONSTITUTIONAL PROVISIONS

The Constitution of India is the supreme law of India. It consists of 448 Articles and 12 Schedules.

I. Article 265

Article 265 of the Constitution of India prohibits arbitrary collecti--on of tax. It states that **"no tax shall be levied or collected except by authority of law".**

II. Article 245

Part XI of the Constitution deals with relationship between the Union and States. Parliament may make the laws for the whole of India & State legislature may make laws for the whole of the State

III. Seventh Schedule to Article 246

It contains three lists which enumerate the matters under which the Union and the State Governments have the authority to make laws.

List I:Union List

It contains the matters in respect of which the Parliament(Cent--ral Government) has the exclusive right to make law.

List II: State List

It contains the matters in respect of which the State Government has the exclusive right to make law.

List III: Concurrent List

It contains the matters in respect of which both the Central & State Government has the right to make law.

Why Need for Constitutional Amendment is arise.?????

Centre has exclusive power to levy and collected of taxes like Service Tax, Excise Duty, Additional Duty on Custom etc.CST is levy by the Central Government but collected by States Gov. State has exclusive power for levy and collected taxes like VAT, Entry Tax,Octroi,Lottary Tax etc.

But there is no power to levy and collected taxes on above by both Central & State Government. Therefore the need for amendment in constitution is arise.

Consequently, Constitution (101st Amendment Act), 2016 (herei -nafter referred to as CAA) was passed. It has 20 sections. Newly inserted Article 279A empowering President to constitute GST Council was notified on 12.09.2016. Remaining provisions were notified with effect from 16.09.2016.

CAA also provides for compensation to States for loss of revenue on account of introduction of goods and services tax(for a period of five years).

Significant provisions of Constitution (101st Amendment) Act, 2016

Significant amendments made by Constitution Amendment Act are discussed below:

Article 246A: Power to make laws with respect to Goods and Services Tax:

1. Article 246A in Constitution of India has been inserted w.e.f. 16-9-2016
   - ✓ to give concurrent powers to Parliament and legislature of each State
   - ✓ to make laws with respect to goods and service tax imposed by the Union or by such State.

For this purpose, 'State' will include 'Union territory with legislature'- Article 366(26B) of Constitution of India [This will cover Delhi, Chandigarh and Puducherry].

2. As per Article 246(2) of Constitution of India as amended w.e.f. 16-9-2016, Parliament (Centre) will have exclusive powers to make laws with respect of goods and services tax where the supply of goods, or of services, or both takes place in the course of inter-state trade or commerce.

Explanation to Article 246 of Constitution of India states that GST on inter-state supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation and turbine fuel shall take effect from the date recommended by GST Council.

Article 269A: Levy and collection of GST on inter-State supply (Newly Inserted)

Article 269A stipulates that GST on supplies in the course of inter-State trade or commerce shall be levied and collected by the Government of India and such tax shall be apportioned between the Union and the States in the manner as may be provided by Parliament by law on the recommendations of the Goods and Services Tax Council.

In addition to above, import of goods or services or both into India will also be deemed to be supply of goods and/ or services in the course of Inter-State trade or Commerce. This will give power to Central Government to levy IGST on the import transactions which were earlier subject to Countervailing duty under the Customs Tariff Act, 1975.

Where an amount collected as IGST has been used for payment of SGST or vice versa, such amount shall not form part of the Consolidated Fund of India. This is to facilitate transfer of funds between the Centre and the States.

Parliament is empowered to formulate the principles regarding place of supply and when supply of goods, or of services, or both occurs in inter- State trade or commerce.

Definitions of 'Goods and Services Tax', 'Services' and 'State' incorporated under Article 366

Goods and Services Tax means a tax on supply of goods or services, or both, except taxes on supply of alcoholic liquor for human consumption - Article 366(12A) of Constitution of India
'Goods' include all materials, commodities and articles - Article 366(12) of Constitution of India.
'Services' means anything other than goods - Article 366(26A) of Constitution of India.

GST Council: Article 279A

The Goods and Services Tax (GST) is governed by the GST Council. Article 279 (1) of the amended Indian Constitution states that the GST Council has to be constituted by the President within 60 days of the commencement of the Article 279A.

The provisions relating to GST Council came into force on 12th September, 2016. President constituted the GST Council on 15th September, 2016.
According to the article, GST Council will be a joint forum for the Centre and the States. It consists of the following members:

- The Union Finance Minister, Arun Jaitley will be the Chairperson
- As a member, the Union Minister of State will be in charge of Revenue of Finance
- The Minister in charge of finance or taxation or any other Minister nominated by each State government, as members.

GST Council recommendations

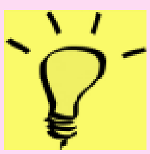
Article 279A (4) specifies that the Council will make recommendations to the Union and the States on the important issues related to GST, such as, the goods and services will be subject or exempted from the Goods and Services Tax.

They lay down GST laws, principles that govern the following:

- Place of Supply
- Threshold limits
- GST rates on goods and services
- Special rates for raising additional resources during a natural calamity or disaster
- Special GST rates for certain States

It shall also recommend the date on which GST be levied on petroleum crude, high speed diesel, motor spirit, natural gas and aviation turbine fuel.

Decision in GST Council will be taken with at least 75% of weighted average voting in favour of the decision. Union Government will have 33.33% voting power and States will have 66.67% voting power.



Even after the introduction of GST:

(i) central excise duty continues to be levied on manufacture/production of tobacco, petroleum crude, diesel, petrol, ATF and natural gas

(ii) State excise duty is leviable on manufacture/production of alcoholic liquor, opium, Indian hemp and narcotics, and

(iii) VAT is leviable on intra-State sale of petroleum crude, diesel, petrol, ATF, natural gas and alcoholic liquor.

Petroleum crude, diesel, petrol, ATF, natural gas are presently not taxable under GST and alcoholic liquor is outside the ambit of GST.